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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/022,996

12/17/2001

Joseph R. Callol

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EXAMINER

SEVERSON, RYAN J

ART UNIT

PAPER NUMBER

3731

MAIL DATE

DELIVERY MODE

07/21/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/022,996	Applicant(s) CALLOL ET AL.	
	Examiner Ryan J. Severson	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8,9 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,9 and 11-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/1/2010 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 8, 9 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (6,099,497) in view of Webster et al. (WO 00/27463).** Adams et al. disclose a method for treating a proximal portion of a main vessel and the opening of a side branch vessel comprising providing a stent (see figure 9) surrounding a pair of balloons, where the balloons can be of a different length (see figure 17), advancing the balloons and stent to the site of the bifurcation, inflating the balloons to deploy the stent, and deflating the balloons to withdraw the catheter. However, Adams et al. fail to disclose no portion of the stent is disposed distal to the opening of the branch vessel.

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4. Attention is drawn to Webster et al., who teaches the use of a stent for a bifurcation (see figure 1c) that does not extend distally beyond the opening when deployed (see figure 2d) and does not block the opening to the side branch vessel. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured the stent of Adams et al. such that it does not extend distal to the opening in the manner taught by Webster et al. Such a modification is merely simple substitution of one known element for another to obtain predictable results. *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396. The system described above can be used in RX and OTW procedures with the guidewires (58 and 60).

Response to Arguments

5. Applicant's arguments filed 7/1/2010 have been fully considered but they are not persuasive.

6. Applicant argues the combination set forth above fails to disclose or suggest the opening to the side branch vessel not being blocked by any portion of the stent. However, in the combination, the stent of Webster et al. is used. The stent has two lumens 5 and 6) at its distal end. These lumens correspond to the openings of the vessel distal to the stent. Because these lumens exist, there is no blockage of the branch vessel by any portion of the stent. This position is further bolstered by the fact that each of the balloons (41 and 42 of Webster et al.) that are used to deploy the stent extend through the stent openings completely into the branch vessel without interruption (as in figure 3b(iii)). If any blockage did occur, the balloon would not be able to pass into the branch vessel.

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7. Further, in response to applicants argument that "As can be seen from FIGS 1a, 1b and 1c of Webster et al., the distal end 4 of the stent would extend into the opening of the side branch vessel....", Examiner respectfully points out that those figures only show the structure of the stent and do not illustrate a vessel at all, much less the notion that the distal end extends into the opening of a side branch. The distal end of the stent of Webster et al. is positioned at the location where the main and branch vessels split (at 33, see figure 2d). This distal end does **not** extend into the branch vessel, and does **not** extend beyond the opening. Applicant is reminded that the claims require "no portion of the stent "is distal to said opening". This does not prevent the distal end of the stent from extending to a location beyond the proximal-most point of the opening.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan J. Severson whose telephone number is (571) 272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ryan J Severson/
Examiner, Art Unit 3731
7/19/10